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December 19, 2006

**VIA FACSIMILE – 297-1738**

Asst. U.S. Atty. Stephen Ingraham  
United States Attorney's Office  
U.S. Federal Courthouse  
517 East Wisconsin Avenue  
Milwaukee, WI 53202-4509

**Re: Michael J. Hays**  
**Case No. 06-CR-174**

Dear Mr. Ingraham:

I am writing to follow up on my letter and enclosure of December 14, 2006 and our telephone conversation of December 18, 2006.

A timeline may be helpful to you and the Downward Departure Committee to evaluate the propriety of a further downward departure than the one Committee has presently recommended. That timeline is as follows:

- |   |         |   |
|---|---------|---|
| 1 | 4/16/04 | Letter from Eric Klumb to "Gomer" (Michael Hays) requesting contact by Mr. Hays or his attorney with Mr. Klumb.   |
| 2 | 4/21/04 | Mr. Hays interviewed by FBI Agents Doyle and Koplinski in Delafield, at which time, Mr. Hays indicated he was willing to cooperate and assist the government. |
| 3 | 4/30/04 | Proffer letter.   |
| 4 | 5/7/04  | Debriefing with Agents Doyle and Koplinski, with Eric Klumb participating by telephone.   |

- 5      6/24/04      Execution of documents so that Mr. Hays can participate in "otherwise criminal activities" as part of his ongoing cooperation with the government.
- 6      8/4/04      Eric Klumb letter and first proposed Plea Agreement.
- 7      8/31/04      Michael Hays' memorandum regarding cooperation to date. (Copy of memorandum is enclosed herein.)
- 8      7/2005      Draft Plea Agreement received from Eric Klumb. Paragraph 27 thereof, provided in part, that the government intended to recommend downward departure based on Mr. Hays' cooperation to date.
- 9      10/12/05      Attorney Lerner's letter to Eric Klumb requesting that Agents Doyle and Koplinski meet with the Downward Departure Committee to more fully explain the extent of Mr. Hays' cooperation with the government. I am also enclosing a memo to me, dated 10/9/05, from Mr. Hays regarding his ongoing cooperation.
- 10     3/2006      Mr. Hays testifies before the federal grand jury in Charlotte, NC. Eric Klumb advises me of Mr. Hays' extensive cooperation and provision of very valuable information, much of which the government cannot use but which is very valuable in and of itself.
- 11     5/3/06      Executed Plea Agreement signed by Mr. Hays that agreement also again contains a paragraph 27 referencing the government's intention to recommend a downward departure based on his cooperation to that date.
- 12     5/4/06 to present      Since that time, Mr. Hays has continued to assist the FBI on an as needed basis and at no time has he refused to continue to assist the FBI. He has recently provided Agent Koplinski with information regarding a group of Pakistanis as well as another group based in the United States that is selling pirated movies. He is meeting with Agent Koplinski on these matters between Christmas and New Year's.

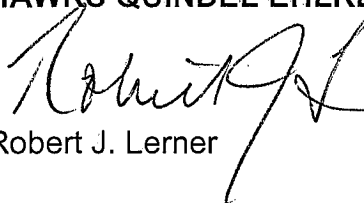
Asst. U.S. Attorney Stephen Ingraham  
December 19, 2006  
Page 3 of 3

I would again request that the Downward Departure Committee hear from Agents Doyle and Koplinski and that it confer with Eric Klumb regarding its recommendation in this case.

I have never dealt with a client who has been more forthcoming and cooperative in his dealings with the government and especially no one who has cooperated for a period exceeding 30 months like Michael Hays has. I believe he is entitled to far more consideration than he has apparently received to date regarding this matter from the Downward Departure Committee.

Very truly yours,

**HAWKS QUINDEL EHLKE & PERRY, S.C.**



Robert J. Lerner

RJL:mc  
Enclosures  
c: Michael Hays

08-31-3004

To: Robert Lerner  
Attorney at Law

From: Michael Hays

Dear Mr Lerner,

I have to apologize for not getting you this information sooner, but I have been sick on and off and I have waited till I have some good ammunition for you.

Attached on the CD you will find all of the information that I have provided the FBI in my undercover work. This work is from 04-29-2004 through 08-30-2004. I have supplied them with mountains of valuable information and I will try my best to put this in a format you will understand. When we determined that it was best for me to cooperate with the FBI I had told you, and the FBI, that I could provide valuable information on not only mage, which as the group I was involved in, but other groups and individuals as well. I have done this and continue to be a valuable source for them. Below I will list basically what I have provided thus far and what I am proposing to do:

1. I have successfully identified most of the mage members and they are,

Mage

  - A. Sniper, real name and location, not only does he leader mage but is leader of a game group called Vengeance (game group) and is involved in many groups and sites.
  - B. Kozmik, real name and probable location, Kozmik runs the drop site for mage and is a server that is about 12 terabyte in size. He is also a member of groups called LND and RBS.
  - C. Evilbob, who at one time was co-leader of mage.
  - D. Justin, identified his work location and position and location in the US. Justin works for Microsoft and has supplied many Microsoft applications as well as many others. Justin was also leader of a group called Paradigm (game group) that the FBI busted a few years ago.
  - E. Fixxer, who was a supplier to mage of movies.
2. Other groups and individuals I have successfully identified are;
  - A. Machv, who is leader of a release group called Phxiso and has been involved in many other groups as well
  - B. Big Perm, who is a senior member of Phxiso and has admitted to being a long time supplier to the group.
3. Almost the entire Jgtiso group which in the past 5 years has released thousands of applications of pirated software and they are;
  - A. Sir Spank, real IP address.
  - B. Biotch, real IP address.
  - C. Raven, real IP address, Raven also runs a drop site and archive site for Jgtiso.
  - D. Root, real IP address.
4. Sites I have identified;
  - A. ML, which is Ssg's main drop site and archive site. Ssg is a prolific cracking group that reverse engineers software for the purpose of releasing it as pirated software.
  - B. KiQ, which is a top release site for a group called TDA and is located in the US. I have successfully identified its link or location but not the actual IP. Its exact location should be relatively easy to find
5. The biggest event to happen was Sniper merged Mage with a software-pirating group called TDA. TDA is one of the most prolific release groups of popular and expensive applications ever. It will take some time to identify some of the individuals in this group, but is only a matter of time. The FBI is also very interested in this group. TDA is well funded, well organized, and I believe profits from the release

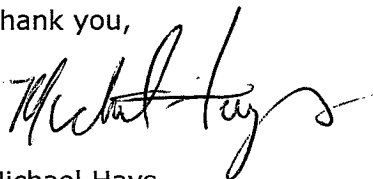
of pirated-software. The FBI is also considering, in helping me, setting up an FTP server that would allow me to add individuals from this group to that FTP so an exact identity can be determined.

6. On another issue I have also helped Agent Jim Doyle on another case of his involving the sale of pirated-software on Ebay. I did extensive research and I know provided the FBI with knowledge that they didn't have. I have also offered my expertise to help the software company prevent any future occurrences like this happening again. The software company is Rockwell and the software being pirated is a suite of software called RSLOGIX that was being sold on Ebay for as little as \$100.00 and its value is \$30,000.00 according to Agent Doyle

The long and short of all this Mr. Lerner is that with what I have already supplied, I have provided the FBI with invaluable information that lead to the individuals listed above. As we both know it is a snowball effect and by leading the FBI to the individuals listed above who knows how many more people it will lead to. I would assume that there are more people like myself that would be willing to cooperate with law enforcement officials. I have also initiated, which I believe, in the supplying of evidence, a new technique that can be used to capture desktop pictures, digital pictures, when online. The program is called HyperSnapDX 5 and takes digital pictures of your desktop. Much like a hand held camera taking pictures, HyperSnapDX 5 captures do not lie and the evidence can not be undermined. The most important issue and focus now seems to be the group called TDA with the FBI which leads me to my summary of what has happened and it is;

I have done my best to cooperate with the FBI to the fullest extent possible and have, as you can see, supplied very good information. As I mentioned earlier the FBI wants me to now possibly setup an FTP server to identify these individuals and possibly it is time to approach the prosecuting attorney to see what we can get now. Mr. Lerner, I continually struggle with my health. I get reoccurring sinus infections as a result of radiation from cancer. I have problems maintaining my weight, which is also from my treatment from cancer. Although, as of now, I do not have cancer and remain clean, it does not it certainly does not preclude the fact that I continue to deal with health issues. My faith remains strong and I take each day at a time. Again, I believe it is time to get in contact with the prosecuting attorney to see what now can be offered. I am doing what I said I could do and I am doing it well.

Thank you,

A handwritten signature in black ink, appearing to read "Michael Hays", with a stylized flourish at the end.

Michael Hays

**1-1-07**

**To: Robert Lerner**

**From: Michael Hays**

**Re: Summary of information supplied to the FBI; Special Agent Doyle and Special Agent Koplinski**

**Mr. Lerner,**

I have to the best of my ability, tried to compile a summary of all that I did. I have seemed to lose one of my backup cd's so this list is not totally complete. I am positive though that Special Agent Koplinski made sure that ALL of what I did in the \*warez\* arena had been put into my folder. The help I supplied Special Agent Doyle which had all been outside of the \*warez\* arena I would assume would have been put into a special folder or part of his notes. This does not include the many calls in which I received from Special Agent Doyle regarding a particular case he was working on. I will try to summarize so you will understand what I supplied first what I supplied in the warez area and then outside that area. Much of this I am uncertain as to the disposition, when I asked what had happened to certain individuals I was told that even the FBI was on a \*need to know basis\* and wasn't told a lot. All of the information I had supplied to the local FBI agents was also given to the case agent, who I assume was in Charlotte.

**Warez;**

**6-4-04**

**I supplied information on;**

This was my opportunity to explain my cover story and to begin to try and identify individual's real location. I did identify Snipers location at that time based on an email he sent me. At that time he was living in Canada. Sniper was, at the time, leader of TDA, MAGE, and VENGEANCE. He was also what was called a siteop which means he had control of about 5 known top level warez sites.

**6-24-04**

**I supplied information on;**

I, again, supplied Snipers real IP address showing his real location, however, at the time he was still living in Canada.

Identified Machv who was leader of PHXISO and co-leader of TDA. I was able to get his real name. I am uncertain as to his disposition.

Identified FiXXer who was a movie supplier with MaGE. I supplied his real IP address showing where he actually was. He was living in Canada.

Was able to list most of the members of a group called JGT.

Identified Sir\_Spank' real IP address, he was a member of JGT.

**Also listed suppliers of pirated software in MaGE  
7-25-04**

**I supplied information on;**

**Identified Justin on which division he worked at Microsoft and what he drove. Justin was a leader in MaGE and founder and leader of a games group called OriGIN and the US leader of a games group called Paradigm. Paradigm was the focus of an investigation, I believe in 2000 by the FBI and subsequent Paradigm members were convicted. As we know, Justin was raided and I have not heard of anything else.**

**Identified Big\_P perms real IP. He was a major player in a group called PHXiSO**

**8-29-04**

**Supplied actual pictures of D0nd, who is co-leader of TDA and sn00py who ran the server for MaGE.**

**Identified Saviour as a major supplier for TDA. From what I understand he was raided also but no more on him either.**

**Also identified a major top level site called KiQ which was located in the US.**

**9-28-04**

**I supplied information on;**

**Identified James, a member of TDA, who performed various tasks for the group including but not limited to running \*shells\*. Shells were nothing more than dedicated space on a server in which the user could use it to run programs to hide their IP to uploading software. I had heard nothing about him since this information was supplied.**

**11-08-04**

**I supplied information on;**

**Identified Raven as running a drop site for JGT**

**Identified playback and his real IP. He was a member of TDA. To my knowledge nothing ever happened to playback as he continued to be on IRC.**

**12-26-04**

**I supplied information on;**

**Identified r00t as being a major supplier for JGT.**

**2-13-05**

**I supplied information on;**

Identified James real name and email address to assist in locating him. James was a member of TDA.

Identified, by name, all of the top level release sites for MaGE, TDA, and TrueWorks.

3-22-05

Successfully identified Raven and his servers real IP. Extensive documentation was done on his server. Directory structures and sub-directories were all captured as a desktop picture. His server had thousands of pieces of pirated software valued at millions. No better evidence has ever been provide, I would bet, on a site from the internet alone. It was so comprehensive that when investigators went to his work-home, which I was told they did, it could be perfectly matched up to the servers actual structure therefore making it impossible to dispute.

I had successfully identified Snipers move to the US and his location. I was told he was raided but nothing more have I heard.

Identified Bi0tch's, member of JGT, real location based on his real IP I was able to get. I was told that along with Raven, he was also raided, but have heard nothing more.

5-23-05

I supplied information on;

Again reaffirmed Playbacks actual IP and his real location.

Continued to provide information on r00t, JGT supplier, as to what he was doing.

8-1-05

I supplied information on;

Identified D0nds real IP and location based on a laptop he was selling in ebay. D0nd is located in France.

Clearly showed that TDA's releases were showing up on Russian web sites selling pirated software. SSG was a cracking group that performed reverse engineering on the some of the software, I am unsure of a financial connection nor was I ever informed of one existing.

2-12-06

I supplied information on;

Gr8gonzo, a member of Mage and runs the channel for JGT. His real location based on an email address that was given to me. As of today, he is still on IRC and nothing has happened.

5-1-06

I supplied information on;



Identified Shdwimage as being a leader and founder in JGT plus his activity in other related \*warez\* groups.

I continued to monitor JGT and it's pirated software releasing and who was supplying it.

I know I had several more meetings with Special Agent Koplinski after this. However, when I was told they caught sniper I got frightened and took everything off my computer. I believe I lost one of the cd's. As you know, sniper and my sister were close and I had thought I had been the only person aside from her that knew he had moved to the US when I supplied the information that led to him being raided. I assume the FBI has this all in my file.

This does not include the thousands of pages of channel logs, which I reported on all activity in a channel I was in nor the thousands of desktop pictures I took. I was meticulous in my documentation of all of my activities when I submitted material. I would assume that much of my material assisted the \*case\* agent in his investigations of pirated software and the groups that supply same. I was told by Special Agent Koplinski that the \*case\* agent had expressed to him that I did a great job in my investigative work and the material I supplied. I was also told by Special Agent Koplinski that my case file was huge. Again, I supplied thousands and thousands of pages of material on individuals, pirated software, sites, and individuals.

This is material and work I did outside the \*warez\* arena and worked with Special Agent Doyle in assisting him and supplying information to him on illegal activities I had found.

6-29-04

I supplied information on;

Special Agent Jim Doyle had asked me to look into a local case involving extremely high end software that was being sold on ebay. The company was Rockwell International and they produce automated systems and software for those automated systems. S.A. Doyle had asked me to look on ebay and look for individuals selling this software pirated. I met with S.A. Doyle and gave him the names of 11 individuals selling the Rockwell software which was called RXLogix. These individuals had collected over \$19,000.00 on over 100 closed auctions. I gave him a full listing of all closed auctions with auction numbers to be able to track these individuals. The loss to Rockwell represented well over 1.5 million in lost revenues. I was never told if any of these individuals were already under investigation, but I assume at least a few of these individuals were not. I was told that the investigation successfully led to the raiding of all involved.

7-6-05

I supplied information on;

Ctace05, jld511, and johngard1919

The names of 3 individuals selling pirated software on ebay. I am not sure of the disposition of these individuals. Complete information was supplied to assist the FBI with an investigation.

10-3-05

I supplied information on;

A *\*phising site\** which is an email sent with a web site address listed to go to. Typically these sites are banks or more commonly Paypal sites. They are called *\*phishing\** because they tell you to go to the web site address listed to update your account information but the web site you go to is not actually one that is legit. It is a clone of the real web site that is designed to get financial information from the individual going to that web site. This web site was located in Herndon, VA. I was told this information was forwarded to the appropriate individuals.

*I also supplied information on a child pornography site which was located in New York. This information was immediately forwarded, I was told, to the FBI agency in charge of that jurisdiction. I had asked about it and I was told that sometimes these take a long time because the \*money\* trail needs to be followed.*

2-19-06

I supplied information on;

Crystal-pix

I had found this individual selling pirated software on ebay. This individual was running a software factory. Based on the information I supplied, this individual was printing the cd's then shipping the pirated software out. Extensive documentation was supplied to include all sales history to include all sales prices, money collected, and retail value of software sold on all ebay auctions I could go back on. The list was extensive and complete to assist the FBI in their investigation. This individual collected in excess of \$10,000.00 and the retail value of the software he sold was in excess of well over \$100,000.00. This individual sold well over 100 copies of software. I was told that by S.A. Doyle that this case was assigned to another agent in Milwaukee. I had asked about the disposition but was never told of the outcome or any subsequent raids.

2-19-06

I supplied information on;

PI (real name Chris Plane)

While meeting with S.A Doyle he asked me to assist him on a case which the B.S.A. (Business Software Alliance) had notified him about. This case involved an individual that was charging a \$500.00 to join his *\*hub\** (group) to be able to download expensive cad-cam

software that had been pirated. All of this occurred online. I will try to list the functions I provided below;

1. This individual was a member of a \*machinist\* forum in which he was blatantly advertising that he used pirated software and for \$500.00 could join his \*hub\* and have access to pirated software. All this software, for the most part, was very expensive high end cad-cam software used by machinist as an aid in doing mission critical jobs. I first had to join the forum and try to establish a conversation with PI.
2. I was successful in establishing a dialogue with PI using false pretenses that I owned a local sign shop and was looking for some software as an aid to assist me. Through much conversation I was able to befriend PI and get him to allow me on his \*hub\* (server).
3. I then setup the \*buy\* for S.A. Doyle which was \$500.00 so he could gain access to this \*hub\*
4. After the buy took place I assisted S.A. Doyle in advising him of what to download as potential evidence.
5. During this whole time I maintained communication with PI and played the role I had started. The evidence gathering was done at FBI headquarters by S.A. Doyle but the lines of communication needed to stay open as to not arouse suspicion and I did that.
6. During this time I also established that he was in the Rockford area and that helped the FBI in determining his location with corroboration from PI.
7. During this time S.A. Doyle and I met many times, I helped him at his office and Milwaukee and delivered, as needed, evidence to where he was at. We spoke at least every few days so we maintained the correct \*cover\* as to not arouse suspicion from PI.
8. This investigation was about 10 weeks in length.

This investigation led to arrest of PI in Rockford. From what I understand when the raid was conducted they found some other contraband as well and PI was arrested by the local police. I am not sure what the \*Federal\* outcome was on the software issue but was told that it would happen probably sometime after the local issue had been disposed of.

9-23-06

I supplied information on;

I met with S.A. Koplinski and gave him information on this;

www.Surpluscomputers.com is definitely selling pirated software online and use disclaimers to try and avoid the legal issues. They are selling Microsoft products that are pennies of what true retail should be but , again, use disclaimers that indicate \*you must own the software license\* to buy the software yet in the same sentence say what they sell install fine just like the full retail version. Plus they are selling software that is classified as NFR which means \*Not For Resale\*. They are located in Novato, CA and are a large online retailer of computer parts.

1and1.com could potentially be providing pirated software if you subscribe to a web hosting service for 1 year. The software, which most is the latest version, has a retail value of well over \$700.00 but all you need subscribe to is a service costing only \$26.88 for the

year. They claim to just send the cd's with nothing else also indicating that the software is probably pirated. They are located in New York City, New York.

I also supplied information on a web site selling schedule 2 drugs online. From what I could see there could be a potential scam going on as the prices they offer are inflated yet offer a local Doctors consultation as well.

12-28-06

I supplied information on;

www.sun74.com which is a huge movie only site that is selling copied-illegal movies. They have thousands of titles and it is quite evident that the movies are illegal. They are sold in vdv9 format which is a common format used when cloning, copying, or re-mastering dvd's.

www.dvd9.org which is a site that sells everything from software, movies, games, xbox, and ps2 titles. This site is HUGE and contains millions of dollars of illegal software. I was able to add over \$20,000.00 worth of software titles for just under \$36.00. This site is professionally run and looks to be making a substantial income from the illegal software.

Special agent Koplinski then talked about, after Jan 22<sup>nd</sup> of utilizing me in certain arenas which I had no objection to. I told him that I would help when I can. He also apprised me that for me to try and go undercover in the Pakistani stuff might not be the best use of what I know. He told me they have agents who are Muslim and can't penetrate. However, he did say that in the future that if a possible fit occurred they would notify me for that arena.

I was also apprised that the Child Pornography site I supplied them *\*was\** under investigation in the New York City office I believe. This is above 10- 03 - 05.

Again, I was told many times that I have gone *\*above and beyond the call of duty\** by both FBI agents. I have also been told that the FBI has *\*priorities\** and intellectual property violations are lower on the list. This does NOT preclude the fact that what I have given them is great information that could lead to huge prosecutions. The best example being what I just game them in on 12-28-06

This is the most complete summary to date that I have. IF I find anything else I will forward it immediately.

Sincerely,



Michael Hays  
(FBI codename *\*Aither\**)



**Wilkinson Medical Clinic®**

Aurora Health Care

September 21, 2005

Re: Hays, Michael J  
DOB: 05/19/1954

To Whom It May Concern:

Mr. Hays has asked that I construct a letter for him in regards to his present health condition in regards to his head and neck cancer. In review, the patient was diagnosed with a metastatic, poorly differentiated, non-small carcinoma of the head and neck back in July 2002. He had noted in early June a lump in his left neck and during the course of the workup had undergone what is called a panendoscopy as well as a biopsy of the lymph node. That was achieved on July 11. It was then that a diagnosis of a metastatic, poorly differentiated, non squamous cell carcinoma was made. During the course of his workup, he was staged with what is described as a TXN2BMO poorly differentiated, non squamous cell carcinoma stage IV. After the diagnosis was made, the patient had sought out several opinions with regards to the treatment course and was seen at the Oconomowoc Memorial Hospital Cancer Center as well as at Froedert Hospital in their cancer clinic and then at the University of Wisconsin-Madison. The recommendations at the time were to receive radiation therapy and chemotherapy. He elected to have his treatment carried out at the University of Wisconsin-Madison and began his treatment in September 2002. Prior to that, because of multiple dental caries, he had to have all his teeth extracted. His posttreatment course for the following 6 to 10 months was relatively stormy. He had multiple admissions to a variety of hospitals for dehydration, pain control, and a variety of other upper respiratory infections. As a result of his treatment, he has been left with a significantly dry mouth and has to carry with him a water bottle on a continuous basis in order to keep his upper airway and digestive tract moist. The long-term survival for patients with stage IV non-small squamous cell carcinoma is not favorable. Those patients such as Mr. Hays have a 35% 5-year survival rate meaning that out of 100 patients with this similar staging, only 35 of those patients will survive beyond 5 years. Fortunately for the patient, his post-course followup have been negative for any recurrence of his head and neck cancer, but unfortunately, he still is at risk for having a recurrence.

If you have any further questions with regards to the patient's condition, please do not hesitate to contact me.

Sincerely,

Dictating Provider  
Mark Flick, DO

MF/tr